

Serial No.: 09/892,383  
Amendment dated: April 4, 2003  
Reply to Office Action of: January 28, 2003  
Atty. Docket No.: JHT-0104

### REMARKS

Claims 1(d) and 26(d) have been amended to reflect the fact that the hydroconverted raffinate referred to in the first line of each of the respective claims is the first hydroconverted raffinate produced in part (c) of each of the respective claims. Thus, the word "first" has been inserted into the first lines of each of Claims 1(d) and 26(d) before the word "hydroconverted".

### DOUBLE PATENTING REJECTION

Claims 1-26 have been rejected under the judicially created doctrine of obviousness-type double patenting rejection as being unpatentable over claims 1-19 of United States Patent Number 5,911,874, Cody, et al., ("Cody"), in view of United States Patent Number 5,039,399, Sequeria ("Sequeria").

### EXAMINER'S POSITION

The Examiner takes the position that Cody does not disclose a water content in the solvent ranging from 3 to 10 vol.%. Therefore, the Examiner cites Sequeria for this limitation.

### APPLICANTS' POSITION

Applicants are unsure as to the Examiner's rejection under obviousness-type double patenting. MPEP 804 states that "before consideration can be given to the issue of double patenting, there must be some common relationship of inventorship and/or ownership of two or more patents or applications." Applicants concede that there is common inventorship and ownership between United States Patent Number 5,911,874,

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Cody, et al., ("Cody"), and the instant application. However, United States Patent Number 5,039,399, Sequeria ("Sequeria") does not share inventorship or ownership with the instant application. Sequeria, Jr. is the only inventor of the '399 patent, and the '399 patent is assigned to Texaco, Inc. Thus, applicants take the position that it would be improper to combine the teachings of Sequeria with the teachings of Cody for a rejection under obviousness-type double patenting here because there is no common relationship of inventorship and/or ownership between the instant application and Sequeria.

The Examiner is requested to reconsider and withdraw this rejection.

#### REJECTIONS UNDER 35 U.S.C. 112

Claims 1-26 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

#### EXAMINER'S POSITION

The Examiner takes the position that "the hydroconverted raffinate" as it appears in line 1 of Claims 1(d) and 26(d) lacks proper antecedent basis.

#### APPLICANTS' POSITION

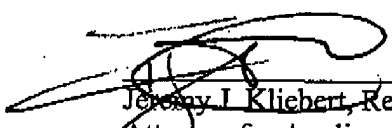
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Based on the preceding arguments and amendments, the Examiner is requested to reconsider and withdraw all objections and rejections and pass this application to allowance. The Examiner is encouraged to contact applicants' attorney should the Examiner wish to discuss this application further.

Respectfully submitted:

Date: April 4, 2003



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